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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,192	11/07/2001	Sachiko Nishiura	Q67062	4888

7590 04/19/2007  
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC  
2100 Pennsylvania Avenue, N.W.  
Washington, DC 20037-3202

EXAMINER
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SHEPARD, JUSTIN E

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

09/986,192

Applicant(s)

NISHIURA, SACHIKO

Examiner

Justin E. Shepard

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/31/07 has been entered.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 2, 5, and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Shimoji.

Referring to claim 1, Shimoji discloses a digital broadcast receiving method for receiving broadcast data in which a plurality of files are broadcast with a plurality of elementary streams for audio and video output, the method comprising:

determining in advance a hierarchical number of said plurality of files to be retained (column 40, lines 25-28; column 55, lines 36-40; figure 8);

initiating reception of said plurality of files (column 47, lines 38-40);

acquiring a start file, which is a first file of said plurality of files, from a determined elementary stream and retaining said start file (column 47, lines 50-54);

acquiring automatically and retaining said plurality of files linked by anchors within each of said plurality of files ranging from said start file to said hierarchical number of files by analyzing said start file (figure 8; column 47, lines 59-62); and

using said retained files to create video and audio output (figure 10; figure 21).

Claims 2, 5, and 8 are rejected on the same grounds as claim 1.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3, 4, 6, 7, and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimoji in view of Brotz.

Referring to claim 3, Shimoji does not disclose a digital broadcast receiving method according to claim 1, wherein all said elementary streams with which said files that were received in advance and retained are being broadcast are constantly supervised, and wherein a trigger for broadcasting that is to be broadcast is received.

In an analogous art, Brotz teaches a digital broadcast receiving method according to claim 1, wherein all said elementary streams with which said files that were received in advance and retained are being broadcast are constantly supervised, and wherein a trigger for broadcasting that is to be broadcast is received (column 11, lines 5-9; Note: in the specification page 13, line 13; an example is given where a trigger is something identifying that there is a "version-up of the file," which is what the reference teaches).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the method of updating out of date files, as taught by Brotz, to the apparatus disclosed by Shimoji. The motivation would have been to keep from having an out of date version of the program stored for the user (Brotz: column 11, lines 5-9).

Claims 6 and 9 are rejected on the same grounds as claim 3.

Referring to claim 4, Shimoji does not disclose a digital broadcast receiving method according to claim 3, wherein contents that said trigger for broadcasting indicates is caused to be reflected on said files that were acquired in advance and retained.

In an analogous art, Brotz teaches a digital broadcast receiving method according to claim 3, wherein contents that said trigger for broadcasting indicates is caused to be reflected on said files that were acquired in advance and retained (column 11, lines 5-9; Note: reflecting the trigger is interpreted as applying it to the given file).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the method of updating out of date files, as taught by Brotz, to the apparatus disclosed by Shimoji. The motivation would have been to keep from having an out of date version of the program stored for the user (Brotz: column 11, lines 5-9).

Claims 7 and 10 are rejected on the same grounds as claim 4.

Referring to claim 11, Shimoji does not disclose a digital broadcast receiving apparatus according to claim 3, wherein the trigger for broadcasting comprises at least one of a version-up message, an event message and a beginning of emergent broadcasting message.

In an analogous art, Brotz teaches a digital broadcast receiving apparatus according to claim 3, wherein the trigger for broadcasting comprises at least one of a version-up message (column 11, lines 5-9), an event message and a beginning of emergent broadcasting message.

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the method of updating out of date files, as taught by Brotz, to the apparatus disclosed by Shimoji. The motivation would have been to keep from having an out of date version of the program stored for the user (Brotz: column 11, lines 5-9).

Claim 12 is rejected on the same grounds as claim 11.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS



SCOTT E. BELIVEAU  
PRIMARY PATENT EXAMINER